

INFORMAL TRADING POLICY FOR THE CITY OF JOHANNESBURG



a world class African city

TABLE OF CONTENTS

PREAMBLE

PART A

- 1. IMPERATIVE FOR REGULARIZATION**
- 2. LEGISLATIVE AND POLICY BACKGROUND**

PART B

- 3. DEFINITIONS**
- 4. DEFINITION OF INFORMAL TRADING**
- 5. SCOPE OF INFORMAL TRADING**

PART C

- 6. DEMARCATION OF DESIGNATED AREAS**
- 7. INFORMAL TRADING SMART CARDS**
- 8. ALLOCATION OF TRADING SPACE**
- 9. RENTAL PAYABLE FOR TRADING SPACE ALLOCATED**
- 10. PERMISSIONS FOR PERIODIC MARKETS**
- 11. APPEALS PROCESS**

PART D

- 12. TRAINING AND MENTORSHIP OF INFORMAL TRADERS**
- 13. INCUBATION AND COOPERATIVES DEVELOPMENT**

PART E

- 14. SPATIAL PLANNING AND DEVELOPMENT FRAMEWORK**
- 15. INFRASTRUCTURE DEVELOPMENT**

PART F

- 17. INFORMAL TRADING CHAMBER**

PREAMBLE

For the City of Johannesburg, informal trading is a positive development in the micro business sector as it contributes to the creation of jobs and alleviation of poverty and has the potential to expand further the City's economic base.

The Johannesburg Growth and Development Strategy (Joburg GDS) was formally adopted in 2006, and espouses a development paradigm which has been harmonized and aligned with development paradigms in national and provincial strategies and affirms a commitment to developmental local government. This development paradigm is a major departure from the approach of previous administrations, and is anchored on the following six principle:

- Proactive absorption of the poor
- Balanced and shared growth
- Facilitated social security and mobility
- Settlement restructuring
- Sustainability and environmental justice
- Innovative governance solutions

The consolidated vision statement for the City reads as follows:

In future, Johannesburg will continue to lead as South Africa's primary business city, a dynamic centre of production, innovation, trade, finance and services. This will be a city of opportunity where the benefits of balanced economic growth will be shared in a way that enables all residents to gain access to the ladder of prosperity, and where the poor, vulnerable and excluded will be supported out of poverty to realize upward social mobility. The result will be a more equitable and spatially integrated city, very different from the divided city of the past. In this world-class African city for all, everyone will be able to enjoy decent accommodation, excellent services, the highest standards of health and safety, access to participatory governance and quality community life in sustainable neighbourhoods and vibrant urban spaces.

With specific reference to informal trading, the City's vision is:

To create a well managed informal trading sector which talks to the needs of its stakeholders and is effectively integrated into the economic, spatial and social development goals of the City.

The City's mission with regards to the informal trading sector is as follows:

In order to create opportunities for the informal trading sector to share in the benefits of economic growth, the City will, through a developmental approach, enable access to job and entrepreneurial opportunities within the informal trading sector as well as to facilitate the migration of informal traders into the formal sector. By providing a stable and predictable regulatory and management environment, a positive relationship with the formal sector will be nurtured so that the sectors operate effectively alongside each other in an environment that fosters sustainable economic growth.

The Informal Trading Policy for the City of Johannesburg contained herein takes account of the principles of the GDS. It is a product of extensive consultation with all the relevant stakeholders

The policy is borne out of the need for a common approach towards informal trading in the jurisdictional area of City of Johannesburg. It lays the foundation for the exercise of informal trading in a manner that is of benefit to those involved in it – traders, property owners and customers alike. The policy also gives further expression to government's commitment to implementing a legitimate regulatory framework for this dynamic sector.

Given its place in the province of Gauteng, broader South Africa, Africa and the world at large, the City of Johannesburg has had to plan in such a way that it accepts the inevitable fact that its actions have implications that are far-reaching, even beyond its actual residents. To this end, policy and legislation on inter-governmental relations, as

well as on the broad conduct of business, have influenced greatly the shape and form of this policy.

This policy seeks to:

- To define an integrated and holistic approach to informal trading for all of the COJ's departments and MOEs;
- To clarify the COJ's position on and approach to informal trading to all relevant and interested stakeholders;
- To form the basis for the review and revision of by-laws that regulate informal trading falling within the jurisdictional areas of the COJ;
- To provide a framework for the development and resourcing of informal trading and informal traders;
- To outline an approach towards the planning and management of informal trading;
- To establish a framework for the monitoring and evaluation of informal trading;
- To establish a policy framework for law enforcement.

Policy formulation and revision remains the City's prerogative. It is the City's intention that any revisions to this policy will also involve a consultative process.

PART A

1. IMPERATIVE FOR REGULARIZATION

1.1 According to the most recent Stats SA statistics, informal trading contributes as much as 4.5% to the national Gross Domestic Product, benefiting millions directly and indirectly.

1.2 Informal trading is as much a part of the past, present and future of the City of Johannesburg as are other forms of economic activity. It contributes towards job creation and thereby helps in the absorption of many who would otherwise be economically idle. As with the formal economy, it helps in the alleviation of

poverty, the indirect medium to long-term outcome of which includes reduced levels of petty crime and criminality.

- 1.3 Given its contribution and relevance, the City hereby aims to create an environment within which the informal trading sector and its participants can become commercially viable and dynamic, so much so that as a whole the sector contributes to the City's vision for total growth as espoused above. Such an environment would be an integrated and holistic one, which includes progressive policies, strategies and laws, integrated spatial planning, development of appropriate infrastructure and support services, organization and management of public trading spaces, and growth and development of informal traders.
- 1.4 Many challenges however face this sector. These include, inter alia, limited infrastructure and storage, law enforcement difficulties, health and safety obligations, diversification and consumer behavior. It is in an attempt to assist this sector and alleviate some of the challenges impeding the further development of this second economy that this policy is being adopted.

2. LEGISLATIVE AND POLICY BACKGROUND

- 2.1 Section 22 of the Constitution of the Republic of South Africa (the Constitution) provides for the freedom of trade, occupation and profession. It provides that “every citizen has the right to choose their trade, occupation or profession freely.” It is accepted that this freedom extends to informal trading.
- 2.2 Section 22 of the Constitution further provides that “[t]he practice of a trade, occupation or profession may be regulated by law.”
- 2.3 Section 36(1) of the Constitution also provides that rights contained in the Bill of Rights may be limited “...in terms of a law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors. The effect of this Limitation Clause on the right to choose a trade is

simply an acknowledgment that the right to trade is not a right that cannot be limited and must be considered and interpreted taking into account other competing rights and obligations.

2.4 Other applicable and relevant legislations that has been taken cognizance of in the formulation of this policy, are as follows:

2.4.1 The Promotion of Administrative Justice Act which provides for standards to ensure just, fair administrative action.

2.4.2 Regulation 918 promulgated under The Health Act 63 of 1977 and which makes provision for the application and issue of Certificates of Acceptability.

2.4.3 The Atmospheric Pollution Prevention Act 45 of 1965 which aims to prevent pollution in the atmosphere and provides for matters incidental thereto.

2.4.4 The National Building Regulations and Building Standards Act 103 of 1977, which provides for standards for the regulation and enforcement of issues connected therewith.

2.4.5 The Businesses Act 71 of 1991 which makes specific provision for the licensing of businesses.

2.4.6 The Noise Control Regulations No.75 promulgated under the Environmental Conservation Act 73 of 1989 and which makes provision for the prevention of noise nuisance activities in the public domain.

2.4.7 The Gauteng Townplanning and Townships Ordinance as well as the various Town Planning Schemes in operation in the jurisdictional area of the COJ due to their regulation and award or limitation of land use and zoning rights.

2.4.8 The Public Health by-Laws which outlines the permit requirements for the rendering of specific services.

2.4.9 The present and soon to be revised Street Trading By-Laws which presently regulate street trading activities.

2.5 Also enshrined in the country's rich policy and legislative dispensation are concepts of social justice, human resource development, restorative justice,

broad-based economic participation and empowerment, observation of laws for orderly business practices and taxation.

This policy seeks to ensure compliance and cohesion with the abovementioned legislative and policy background.

PART B

3. DEFINITIONS

For purposes of this policy, the following acronyms or words will bear the following meanings:

- 3.1 COJ means the City of Johannesburg.
- 3.2 Designated area(s) means an area designated for the purposes of informal training after having followed the process for designation in terms of the Businesses Act 71 of 1991.
- 3.3 DED means the Department of Economic Development of the City of Johannesburg and includes any successor in title or function.
- 3.4 DEH means the Department of Environmental Health of the City of Johannesburg and includes any successor in title or function.
- 3.5 Informal trader means one who carries on the activity of informal trading.
- 3.6 MOEs means municipal owned entities as envisaged in terms of the Municipal Systems Act 32 of 2000.
- 3.7 MTC means Metropolitan Trading Company, a service utility of the City of Johannesburg and includes any successor in title or function.
- 3.8 Public spaces means property which is freely open to the public whether by payment of an admission fee or not, and irrespective of whether the property is privately owned or not.
- 3.9 Spaza shops means informal trading activities taking place from private residences.
- 3.10 DTI means Department of Trade and industry of the National government
- 3.11 JRA means Johannesburg Roads Agency of the City of Johannesburg

3.12 Johannesburg City Parks a service utility of the City of Johannesburg and includes any successor in title or function.

3.13 The linear market means trading area designated for street trading in a 'pedestrianised' environment. It is also distinguished by attractive roofing which becomes the centerpiece that adds to the surrounding aesthetics and urban management design.

4. DEFINITION OF INFORMAL TRADING

4.1 For purposes of this policy, informal trading shall refer to the sale of legal goods and/or services by individuals and/or groups, in locations designated for informal trading and which requires little more than the actual goods and/or services to commence.

4.2 This definition expressly excludes criminal and illegal activity in terms of the laws of the country.

4.3 Trading in private residences in the form of, among others, spaza shops, shebeens and taverns, is not subject to this policy as these kinds of economic activity is already subject to regulation under other policies and procedures within the COJ.

5. SCOPE OF APPLICATION OF POLICY

5.1 This policy will be applicable to all forms of informal trading as defined in Clause 5 hereof and occurring within the jurisdictional area of the COJ.

5.2 Informal trading taking place on private property does not fall within the scope of this policy.

PART C

6. SPATIAL PLANING AND DEVELOPMENT FRAMEWORK

- 6.1 Spatial planning and development in the COJ will take into consideration the needs and requirements of the informal trading sector
- 6.2 Spatial planning requirements for the accommodation of informal trading shall apply to private property developers as well, especially if the new development displaces a present market, or has potential to attract the interest of informal traders in the long-run.
- 6.3 The Development Planning Department within the COJ shall develop instruments to ensure that what is envisaged in Clause 6.2
- 6.4 For the future, spatial development will focus on the gradual development of aesthetically inferior and poorly serviced demarcated informal trading spaces.
- 6.5 The COJ's spatial planning and development approach will, moving forward, encourage decentralization and equitable development in previously neglected economic nodes.
- 6.5 With regards to the establishment of new townships, the COJ will seek to ensure that the roads are wide enough to accommodate informal traders, vehicular movement and parking and pedestrian traffic.

7 INFRASTRUCTURE DEVELOPMENT

- 7.1 This policy recognizes that various Departments within the COJ or MOEs share the responsibility of infrastructure development within the jurisdictional area of the COJ, be that responsibility direct or indirect.
- 7.2 When infrastructure development is planned within the COJ, informal trading markets must be considered and the MTC consulted.
- 7.3 DED shall categorize and define the different types of informal trading markets and priorities for infrastructure development in relation to informal trading markets.

7.4 The City's approach to infrastructure development for informal trading will be guided by DED's categorization of informal trading markets and identified developmental priorities.

7.5 Where a COJ Department or MOEs initiates new informal trading infrastructure development projects, emphasis shall be placed on the development of the least developed markets so that they may be gradually improved and eliminated,

7.6 The relevant Departments of the COJ or MOEs responsible for infrastructure development within the COJ must strive to ensure that the development of infrastructure of informal trading is done equitably throughout the jurisdictional area of the City.

8. DEMARCATION OF DESIGNATED AREAS

8.1 DED shall ensure that all informal trading spaces are formalized through demarcation as envisaged in the Businesses Act 71 of 1991 to ensure that the entire jurisdictional area of the COJ has been considered for demarcation.

8.2 DED in consultation with all relevant Departments, shall draw up a plan to ensure that what is envisaged in Clause 8.1 above is effected forthwith.

8,3 Designation of trading areas shall consider specific areas e.g. Economic Nodes of the City/Central Business Districts, adjacent to Public transport facilities, Public open spaces, areas with High levels of pedestrian traffic; The proximity of informal trading to formal trading; High levels of vehicular traffic.

8.4 Informal trading shall only be allowed on the restricted bays in areas that shall be designated for that purpose as envisaged in clause 8.1, subject to being in possession of a valid Smart Card as stipulated in clause 9 or lease issued by MTC.

9. INFORMAL TRADING SMART CARDS

9.1 A smart card is a means to verify the issuing of licenses, permits and permissions that a particular informal trader has applied for and obtained. It will also contain information on where the informal trader has been allocated space to trade within the City and how much rental they are required to pay.

9.2 The MTC-issued smart card will constitute a tool for the administration, management and law enforcement of informal trading.

9.3 Smart cards will be issued only to applicants that would have complied with all requirements for the trading in the goods and services of their choice.

9.4 All informal traders trading in the designated trading areas within the jurisdictional area of the COJ are required to apply for smart cards with the MTC.

9.5 The validity period of a smart card issued to a legal immigrant informal trader must coincide with the validity period of whatever documentation authenticates that their stay in this country is legal. The validity of a legal immigrant's smart card may be renewed in accordance with any renewal or extension of permissions to lawfully stay in the country.

9.6 For the purpose of processing applications for informal trading permits, the MTC will issue comprehensive application forms requesting the provision of, inter alia, the following kinds of information, namely:

9.6.1 biographical information of the informal trader together with proof of identification and proof of permission to be in the country, if applicable.

9.6.2 the goods and/or services that the informal trader trades/wants to trade in.

9.6.3 the informal trader's present trading location, if any.

9.6.4 the informal trader's preferred trading location.

- 9.7 All prospective informal traders will be issued the same form irrespective of the goods or services they wish to trade in.
- 9.8 To this end, the DED will coordinate a process through which all affected departments and entities will compile a single, comprehensive form with sections that address all the requirements necessary to ensure that any informal trading licenses, certificates or permits that are issued are not done until all other required permits are in place.
- 9.9 An application fee for the issue of informal trading licenses, certificates or permits will be payable by the prospective informal trader.
- 9.10 All informal traders trading in the designated trading areas within the jurisdictional area of the COJ are to be registered and allocated trading space for which they shall pay rentals, the amount of which shall be determined from time to time. The MTC shall become the one-stop shop for this purpose.
- 9.11 The MTC will decide within sixty (60) days whether or not to grant the permit. Reasons will be provided in the event where an application is declined.
- 9.12 Businesses in respect of which any other license, certificate or permit is required, other than an informal trading license, is required are to comply with the necessary provisions in addition to this registration process. This refers in particular to businesses that engage in the:
- 9.12.1 Sale or supply of meals or perishable foodstuffs;
 - 9.12.2 Provision of certain types of health facilities or entertainment;
 - 9.12.3 Sale or supply of repacked sweets, crisps, chocolates, biscuits and other prepared foodstuffs.
 - 9.12.4 Provision of informal hairdressing services, cosmetology or beauty services, body piercing and tattooing services.
- 9.13 Once their application for an informal trading smart card has been successful, the applicant trader will be issued with a smart card with such details on it as their

biographical information, trading space to which they had been allocated, rent-paying status, as well as the goods and services in which they have permission to trade.

9.14 Any smart card issued may be withdrawn provided good cause can be shown, and especially when:

9.14.1 any relevant legislation has not been complied with by the license, certificate or permit holder;

9.14.2 any condition of the license, certificate or permit has not been complied with by the permit holder.

10. ALLOCATION OF TRADING SPACE

10.1 It is the responsibility of MTC to ensure that all informal traders who have been successful in obtaining an informal trading license are issued with a space in which to trade.

10.2 MTC shall develop criteria for the determination of space allocation in accordance with this policy.

10.3 Trading space will be allocated on a one-trader, one-stall basis.

10.4 The allocation of trading space should be done automatically via an electronic system developed for processing informal trader permit application forms.

10.5 The methodology used to allocate space should also take into account all relevant factors, including but not limited to:

10.5.1 the address of the applicant,

10.5.2 goods or services to be traded in,

10.5.3 projected income;

10.5.4 the preferred trading location indicated on the application form, which criteria must be considered in the context of what trading space is available;

- 10.5.5 any displacement from a previous trading space that the applicant may have suffered.
- 10.6 If the applicant has been displaced from a space from which he/she previously used to trade, due to no fault of their own, this applicant will be prioritized in relation to the allocation of trading space.
- 10.7 Existing informal traders, ie: those who are already trading and simply need to formalize their trade in accordance and compliance with this policy and any newly enacted by-laws, will also be prioritized in relation to the allocation of trading space.

11. RENTAL PAYABLE FOR TRADING SPACE ALLOCATED

- 11.1 It is the responsibility of MTC to ensure that all informal traders who have been successful in obtaining an informal trading license pay rental for the trading space allocated to them.
- 11.2 MTC shall develop criteria for the determination of rentals payable for trading space allocated in accordance with this policy.
- 11.3 The methodology used to determine an amount of rental payable should take into account, inter alia, the services and infrastructure available at the trading space allocated.
- 11.4 Initially determined rental amounts may not be increased within a period of 1 year from the date of its determination.
- 11.5 Any increase in rental may not be effected unless the affected informal trader has been given 30 days notice of such increase. Such notice may be in the form of an announcement poster placed at the informal trader's market or place of trade.

12. PERMISSIONS FOR PERIODIC MARKETS

12.1 Periodic markets are markets which locate alongside stadiums and public event areas and occur specifically at public events, such as music concerts, festivals and fairs, religious celebrations and cultural holidays.

12.2 What is commonly referred to as flea markets, bargain markets, craft markets, artifacts and curio markets, tourist markets, and which are not permanent in nature, are included in the definition of periodic markets.

12.3 Periodic markets are not permanent markets, either because the market is linked to events which occur periodically, or the space in which the market is held is occupied by other uses when the market is not open, or the purpose of the market is specifically to highlight and promote specific goods or cultures.

12.4 It is the responsibility of all periodic market organizers or operators, falling within the definition and scope of this policy, to seek permission to operate such a market from the JMPD, JRA, City Parks if it is intended that the market will operate in public spaces.

12.5 The MTC will develop processes and procedures for the granting of limited period permissions for the operators of periodic markets within markets that are assigned to MTC.

12.6

13. APPEALS PROCESS

- a. An informal trader who is aggrieved regarding the trading space assigned to him/her and /or rental payable may lodge an appeal and request reconsideration of the decisions made in this regard.
- b. DED must ensure that an effective and legally compliant appeals process is in place in order to process any appeals lodged by aggrieved informal traders.
- c. Informal traders must be advised of an opportunity to appeal against the allocation of space or rental required of him/her.
- d. The turnaround time for any appeals process initiated in terms of this Clause should not exceed 60 (sixty) days.

PART D

14. TRAINING AND MENTORSHIP OF INFORMAL TRADERS

14.1 The training and mentorship referred to in this section does not relate to compulsory and/or statutory training required by applicable legislation.

14.2 Mentorship refers to a process of providing advice to informal traders, which advice may include improved methods of the provisions of services and high quality goods in a way that promotes success, sustainability and profitability.

14.3 It shall be the responsibility of DED together with MTC to develop Training and Mentorship Programmes for informal traders. These programmes may be offered in conjunction with training partners

14.4 Training opportunities will be availed, in the first instance, to informal traders who show interest, except those who are required to be trained in terms of applicable legislation.

14.5 Informal traders who trade in markets that occur on private property, and which is consequently excluded from operation of this policy, will also be eligible to participate in any training opportunities referred to in this policy.

14.6 The DED shall ensure that all informal traders are aware of the training opportunities on offer by way of a comprehensive communications strategy specifically developed for this purpose.

14.7 Training and Mentorship Programmes shall be designed in line with considerations of learning readiness and prior training, knowledge and skills of the trainees, and with the main emphasis and outcome of training being that of practical implementation and improvement of business skills.

14.8 The curriculum of training on offer may contain such aspects as listed below.

14.1.1 Policy and legislation;

14.1.2 Business legalities;

14.1.3 Regulation and by-laws;

14.1.4 Lobbying and advocacy;

14.1.5 Personal and life-skills;

14.1.6 Business growth and success factors.

14.9 Training being offered shall periodically be monitored and evaluated to ensure value to beneficiaries, effectiveness and credibility of the programmes involved.

15 INCUBATION AND COOPERATIVES DEVELOPMENT

15.1 Incubation is a process through which trainees with basic business training are linked with others who have the common vision to identifying new locations and products to be offered for sale. The concept has the potential to accommodate large numbers of beneficiaries, depending in part on the goods and/or services that are the subject of incubation.

15.2 It shall be the responsibility of MTC to run Incubation Programmes for informal traders, based on a transparent and consultative approach of which all involved

shall be made aware. The criteria for the selection of participant beneficiaries shall also take into account the needs and expectations of targeted informal traders.

- 15.3 Traders who opt to participate in any Incubation Programme may be required to discontinue their individual businesses in favour of joint efforts with colleagues.
- 15.4 Cooperatives Development may be facilitated by MTC in line with the Cooperatives Act of 2005 and should link in with any Incubation Programmes being offered by DTI .

PART E

16 LAW ENFORCEMENT

- 16.1 Law enforcement will cover the areas of illegal and prohibited conduct, including but not limited to:
 - 16.1.1 the policing of restricted conduct,
 - 16.1.2 the policing of contraventions of Regulation 918 promulgated under the Heath Act;
 - 16.1.3 the policing of trading in prohibited and restricted areas.
- 16.2 Law enforcement in respect of illegal and/or prohibited conduct shall be undertaken by JMPD or any law enforcement unit specifically constituted for this purpose.
- 16.3 Law enforcement in respect of the removal and impoundment of goods shall be carried out by the JMPD in line with the street-trading by-laws as reflected in the JMPD Operating Procedures for Goods Impoundment.
- 16.4 The extent of law enforcement action taken against illegal or prohibited activities must be relative to the processes and structures in place at the COJ. The policing

and requiring of smart cards cannot be enforced before MTC has the necessary processes and structures in place to ensure the issuing of smart cards.

16.5 DED together with MTC, JMPD,JFPM,DEH,JDA,Planinng and Urban Management and any other relevant stakeholder, shall plan for the phased-in implementation of this policy, and consequently law enforcement action in terms of this policy and any by-laws which this policy may inform.

16.6 DED shall draw an awareness programme through Communication strategy as envisaged on 14,6 which shall include educating informal traders about this Policy , The policy shall also be translated into Vernacular Languages, e,g Zulu,Sotho,Tsonga e.t.c in a form of shall booklets

PART F

17 CONSULTATION AND STAKEHOLDER INVOLVEMENT

17.1 An Informal Trading Chamber shall be established as a forum for consultation and resolution of issues that may arise relating to informal trading throughout the City of Johannesburg.

17.2 The Informal Trading Chamber shall determine its own terms of reference

17.3 The informal trading sector representatives shall also be invited to attend Johannesburg Business Forum meeting.

17.4 The Informal Trading Chamber will comprise duly appointed representatives from all Informal Traders organasations ,representatives of all legitimate Market committee Reps etc that exist with the jurisdiction of the City of Johannesburg business, commerce, property owners and developers as well as other interested parties who may from time to time apply to make presentation to the Forum.

17.5 DED in collaboration with MTC shall undertake a Verification process of all the traders Associations and Representatives to verify their legitimacy and democratic representation .